UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

AKEEM HENDERSON, et al.,

Plaintiffs,

vs.

CASE NUMBER

5:19-CV-00163

WILLIS-KNIGHTON MEDICAL CENTER d/b/a Willis-Knighton South Hospital,

Defendant.

DEPOSITION OF

RICHARD M. SOBEL, M.D.

November 26, 2019

10:02 a.m.

105 Tivoli Gardens Road

Peachtree City, Georgia 30269

Thomas R. Brezina, CRR, RMR, CCR-B-2035

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(present via speakerphone)

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instance?

A Yes.

Q And what is your opinion?

A There was.

Q And again, we're -- but that would be only to the first visit of February 10th?

A Yes.

Q In your opinion who was negligent in the treatment of the patient: The doctor or the hospital nurses?

A Both.

Q So it's your opinion that there was a breach of the standard of care by both the treating ER physician and hospital nurses in treating this patient; is that right?

A Yes. And the respiratory therapy, if they even were involved. I haven't been able to detect the presence of a respiratory therapist yet, but I haven't excluded the possibility that there was one involved.

Q And so it's also your opinion that the respiratory therapist breached the standard of care in the treatment of the patient in this case?

A Well, that becomes likely because there is no documentation, unless there is documentation

found on discovery. I don't know if discovery is complete. But unless there is documentation of the involvement of a respiratory therapist found, that would be a breach of the standard of care. You can't really treat a patient as a respiratory therapist in an emergency department without any documentation.

Q Do you remember what Mr. Banks told you about the patient's treatment in this case? Independent of your review of case, were you told anything?

A You mean what he told me as a thumbnail sketch of the case --

Q Yes, sir.

A -- before he sent me the case?

Q Yes, sir.

A No. I don't specifically recall. I would assume he told me it was a four-year-old that had exacerbation of asthma, history of prematurity, was discharged, and returned to the hospital in cardiac arrest some three or four hours later.

Q Did you actually meet with plaintiffs' attorney, or just have telephone conversations?

A Just telephone conversations.

Q Have you ever spoken with this

that something you rely upon?

A Oh. Well, I haven't seen any evidence of the use of any sort of monitor system in this case. I certainly would like to review it if it exists.

Q Now, so I can understand that, you don't see where this patient was monitored in the hospital?

A No. I see spot checks of the respirations, pulse oximetry on two occasions. I don't have any rhythm strips at all, which actually, I believe is a breach of the standard of care. This is a patient that should have been on a monitor with continuous vital signs monitoring: Respiratory rate, pulse rate, and pulse oximetry. That would be the standard for a four-year-old presenting in respiratory distress, all the way through their transfer likely to another hospital.

Q In your experience in reviewing records do the hospitals typically include in the record, the entire strip from such a monitoring system? In the medical records it stores?

A The entire strip, no. The standard of care does not require them to preserve an entire strip, so the standard would require them to

preserve evidence of monitoring on an intermittent basis. Depending on the circumstance, it might be every five minutes; it might be every 15 minutes, whatever is appropriate. But some evidence of continuous monitoring, if they had provided it, is the standard of care.

And to answer, I think, the second part of your question, I've seen many cases where the hospital did not properly retain evidence of continuous monitoring or did not produce evidence of monitoring right up until the weekend before trial when it mysteriously appears and it's produced. So yes, that is a problem.

Q In the ERs isn't it true that quite often the patients are more closely monitored in an emergency room setting than they are on the floor?

A Yes.

Q Back to the facts on the bottom of the page 4, you stated in the last sentence, "She had been seen on 12/6/17 at the WK South emergency department for a milder exacerbation of bronchospasm and discharge."

A I think I had lost our place.

Q Bottom of page 5. I'm sorry.

A Okay.

access. You're going to give intravenous steroids, not a shot at the end of the day when the child is almost out the door, but as I said, it's definitely better than nothing.

Q So when this child, assuming that the doctor is telling the truth in here that she is improved and that she is no longer in the tripod position, that she is not using accessory muscles, you're going to still put an IV in her?

A You do that immediately on presentation.

Q On a child --

A A four-year-old in a tripod position, absolutely.

Q So the standard of care in your opinion would be that any child who presents in the tripod position with an asthma attack, you have to put an IV in and hospitalize them?

A I would say on the order of 99.9 out of 100, that would be the anticipation.

Q What if medications are given, DuoNeb and albuterol, and the breathing problems subside?

A Well, it sounds like you're making progress, getting lucky, but the potential for material deterioration is clearly still there